

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division**

JOHN D. SIMPSON,

Petitioner,

v.

Civil Action No. 3:18CV165

SUPREME COURT OF VIRGINIA,

Respondent.

**MEMORANDUM OPINION**

John D. Simpson submitted a document that he labeled a "NOTICE OF APPEAL." (ECF No. 1.) Given the content of this document, the Court gave Simpson an opportunity to pursue this action as a petition for a writ of habeas corpus under 28 U.S.C. § 2254. See Rivenbark v. Virginia, 305 F. App'x 144, 145 (4th Cir. 2008). Accordingly, by Memorandum Order entered on April 4, 2018, the Court sent Simpson the form for filing a 28 U.S.C. § 2254 petition. The Court informed Simpson that if he wished to proceed pursuant to 28 U.S.C. § 2254, he must complete the § 2254 petition form and return the same to the Court within twenty (20) days of the date of entry thereof. The Court warned Simpson that the failure to return the § 2254 petition form or take any further action in this matter within twenty (20) days of the date of entry thereof would result in the dismissal of the action. See Fed. R. Civ. P. 41(b).

More than twenty (20) days elapsed after the entry of the April 4, 2018 Memorandum Order and Simpson failed to respond.

Accordingly, by Memorandum Opinion and Order entered on May 8, 2018, the Court dismissed the action without prejudice. (ECF Nos. 3, 4.)

On May 18, 2018, Simpson filed a Motion for Reconsideration with the Court. Although not entirely clear, Simpson indicated that he had responded in a timely manner to the Court's April 4, 2018 Memorandum Order. Simpson, however, failed to include his response to April 4, 2018 Memorandum Order with his Motion for Reconsideration. Accordingly, by Memorandum Order entered on June 1, 2018, the Court directed Simpson to provide the Court with a copy of his response to the April 4, 2018 Memorandum Order within twenty (20) days of the date of entry thereof.

Thereafter, Simpson filed a Notice of Appeal (ECF No. 7) and a Motion to Remand and Memorandum in Support (ECF Nos. 9-10), which apparently were the documents he purportedly attempted to file in response to the April 4, 2018 Memorandum Order. The Motion to Remand and Memorandum in Support appear to be some sort of attempt by Simpson to challenge an adverse ruling by the Supreme Court of Virginia on a petition for a writ of mandamus filed by Simpson. None of Simpson's submissions provide a coherent basis for reconsidering the dismissal of the action. Accordingly, Simpson's outstanding motions (ECF Nos. 5, 9) will be denied.

An appropriate Order shall accompany this Memorandum Opinion.

/s/ *REP*

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Robert E. Payne  
Senior United States District Judge

Richmond, Virginia

Date: July 3, 2018